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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,956	10/31/2003	Martin Scholz	16104-014001 / 2003P00684	8804
32864	7590	04/16/2008	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			DUNN, DARRIN D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/698,956

Applicant(s)

SCHOLZ ET AL.

Examiner

DARRIN DUNN

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is responsive to the communication filed 01/25/2008.
2. Claims 1-20 are pending in the application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1-3, 10, 11, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (USPN 7047426) in view over Cheshire (USPN 20050125545).
 6. As per claims 1,10, 11, 14, and 15, Andrews et al. teaches a method of informing a user about communications between a client device and a server device, the method comprising:

providing executable code from a server device to a client device that is capable of communicating with the server device ([COL 20 lines 7-18] e.g., *downloading files to portable computing device from host computer*), which code (i) is configured to be stored on the client

device and be executed during each of subsequent communications between the client device and the server device ([COL 20 lines 7-18] e.g. *it is understood that downloading a program necessarily stores the program[s for execution], where in response to a requested action, i.e., LOCK UP DEVICE, such program[s] are executed upon subsequent communications, i.e., requests. Subsequent executions are interpreted as subsequent and/or repeated requests*), and (ii) when executed blocks the client device from receiving user input during the communications between the client device and the server device (LOCK UP, supra COL 20 lines 7-25])

However, Andrews et al. is silent with regard to the limitation that if any of the communications between the client device and the server device lasts longer than a specific time, then causing a message to be presented to a user of the client device. Cheshire teaches providing a user, after a certain time period has elapsed, a timeout message to be displayed by the operating system of the application [0006 lines 8-16 e.g., timeout message]

Therefore, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify Andrews et al. as to inform a user of a timeout. Andrews et al. provides for locking a client computer during communication with a server. Cheshire provides for informing a user of a timeout via a display message. Since it is foreseeable that during a communication session a timeout may occur, and given that a client computer input is disabled during this time period, it would have been obvious to inform a user of a timeout occurring during a communication session as a commonly known means of apprising a user of a communication status. Cheshire is illustrative of a timeout message for the purpose of delineating a commonly known timeout message. (Note: a specific time is not defined in terms of its nature, degree, or length. Given the broad nature of the claim, it is recommended to

quantify the meaning of a specific time. In effect, the claim is rejected on the basis of well known timeout mechanisms that inform users that a request has timed out)

7. As per claim 2, Andrews et al. teaches the method of claim 1, wherein the executable code is client-side framework code provided from framework code in the server device that controls communications between the server device and client devices ([COL 20 lines 15-18] e.g. program code)

8. As per claim 3, Andrews et al. teaches the method of claim 1, further comprising providing the executable code in response to the server device receiving a request from the client device to launch an application program capable of initiating the communications ([COL 20 lines 7-20] e.g., *in response to client requesting Verify User, i.e., request from client, program files are downloaded from host to client, i.e. providing executable code. Note: capable is a non-positive limitation*)

9. Claims 4, 12, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (USPN 7047426) in view over Cheshire (USPN 20050125545) and in further view of Sardesai et al (USPN 20040187104)

10. As per claims 4,12, and 17 Andrews et al., as modified, does not provide wherein the message is an over-definition of a default message. However, Sardesi et al. teaches where a system administrator may custom design a message [0048 e.g., an over-definition is interpreted as a customized message].

Therefore, at the time the invention was made, one of ordinary skill in the art would have motivation to customize a message presented to a client. Andrews et al provides for locking a client during a communication session. Cheshire provides for presenting a timeout message to a

client. Given that a user may experience communication timeouts and/or application program errors during execution of a locking program, it is foreseeable that a user may require a status notification. A customized message provides an enhances benefit of tailoring status information to a user as to mitigate user confusion.

11. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (USPN 7047426) in view of Cheshire (USPN 2005/0125545) and in further view of Abrams et al. (USPN 6724732)

12. As per claims 5 and 16, Andrews does not disclose wherein a communication lasts longer than the specific time due to network delays, server-side delays, or combinations thereof. However, Abrams et al. teaches dynamically adjusting timers based on network delays ([COL 2 lines 35-50]).

Therefore, at the time the invention was made, one of ordinary skill in the art would have motivation to modify Andrews et al. as to base the timeout value based upon network delay as taught by Abrams et al. Since a timeout message is based on a timeout value, and given that delays within a network are a foreseeable condition, it would have been obvious as to adjust a timeout based upon a network delay.

13. As per claim 6, Cheshire teaches the method of claim 1, wherein the communication lasts longer than the specific time when the client has not displayed a server response – timeout within the specific time ([0037]).

14. As per claim 7, Andres et al. teaches the method of claim 1, wherein the executable code ceases to block the client device from receiving user input after each communication has ended ([COL 11 lines 35-40] e.g., the nature of the communication is not defined. If the a

communication ends as a function of providing a password, then access is granted again to the computer)

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (USPN 7047426)) in view of Cheshire (USPN 2005/0125545) and in further view of Nicholas III (USPN 2002/0057285).

16. As per claim 8, Andrews et al. as modified, according to claim 1, teaches executable code presenting a message on client device during one of the communications on the client device and further teaches that the executable code releases the client ([COL 11 lines 35-40]).

However, it does not teach causing the client device to cease presenting the message after that communication has ended. Nicholas III teaches a step of extinguishing the message when the message could distract the user ([0017]).

At the time the invention was made, one of ordinary skill in the art would have motivation to remove the message indicator once communication as ended. Since a residual indicator could interfere with operation of the client device once user interaction has been re-established, there is motivation to further include this feature.

17. Claims 9, 13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. (USPN 7047426) in view of Cheshire (USPN 2005/0125545) and in further view of Taylor (USPN 6854012).

18. As per claims 9,13, and 19, Andrews et al., as modified, does not teach the limitations of claim 9. However, Taylor teaches setting the specific time based on at least one selected from the group consisting of : roundtrip time for a communication between the server device and the client device ([COL 17 line 17], typical roundtrip times for communications between the server

device and the client [COL 17 line 43), a roundtrip time expected by at least one user of the client device ([Col 17 line 55]

Therefore, at the time the invention was made, one of ordinary skill in the art would have motivation to modify Andrews et al. as to base the timeout value based upon the aforementioned roundtrip values. Taylor teaches setting timeout values using round trip times. It is well known to base a timeout value on round trip times. Since round trip times may vary depending of certain network.

19. As per claim 18, Cheshire, teaches the computer system of claim 15, wherein the client-side framework code causes the message to be displayed on the client device ([0006 lines 8-16]).

20. As per claim 20, Taylor teaches the computer system of claim 15, wherein at least one roundtrip time for a communication between the server device and client device is recorded and the specific time is set based on the at least one roundtrip time ([Col. 7 lines 17-43]

Response to Arguments

21. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARRIN DUNN whose telephone number is (571)270-1645. The examiner can normally be reached on EST:M-R(8:00-5:00) 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD

/Albert DeCady/

04/12/08

Supervisory Patent Examiner

Art Unit 2121